

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, March 2, 1998

DIVISION TWO

A073270 -- The People v. Fred Gene Stillman et al.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on January 29, 1998, be modified in the following particulars: (See Order) Appellant's petition for rehearing is denied. This modification effects no change in the judgment. Kline, P.J.

A080291 -- In re Christina Marie H., a Person Coming Under the Juvenile Court Law.

The order terminating visitation between Wallace H. and Christina is reversed. This matter is remanded for a full evidentiary hearing consistent with the requirements set forth in this opinion. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A081734 -- Nicanor O. Ballesteros, et al. v. The Court of Alameda County, Ty Xuan Do, et al., R.P.I.

By The Court: The petition for writ of mandate is denied. Kline, P.J.

A081752 -- Wesley White v. The Superior Court of Contra Costa County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, March 3, 1998

DIVISION ONE

A080086 -- The People v. Mario Alberto Bellos Gaburel.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J.,
Dossee, J. (Not for Publication.)

DIVISION TWO

**A081754 -- Dwight I. Windham v. The Superior Court of Marin
County, The People of the State of California, R.P.I.**

By The Court: The petition for writ of mandate/prohibition is denied.
Kline, P.J.

DIVISION FOUR

A078473 -- The People v. Jeffrey Thomas Burgess.

The appeal is dismissed. Hanlon, P.J. We concur: Poché, J., Reardon, J.
(Not for Publication.)

A080580 -- The People v. James Jay Beatty.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, March 4, 1998

DIVISION ONE

A077060 -- The People v. Aaron Sharp.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A079253 -- Trevor Thomson v. The Southland Corporation et al.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A079548 -- In re the Marriage of Rodnee Ann Palmer and George A. Palmer, IV.

The post-dissolution order filed June 10, 1997, modifying child support is reversed. The case is remanded to the trial court. On remand, the court shall recalculate Father's section 4071, subdivision (a)(2) hardship deduction so that it does not exceed the guideline support allocated to Kyle, as mandated by section 4071, subdivision (b). The award of a hardship deduction shall be supported by an express statement of reasons pursuant to section 4072. Mother shall recover costs on appeal. Strankman, P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

A080078 -- The People v. Jose Jesus Vasquez Miranda.

The order permanently revoking appellant's probation is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J.

Wednesday, March 4, 1998 (continued)

DIVISION TWO

A074886 -- The People v. Van Howard Johnson, et al.

The judgments of both juries are affirmed. The case is remanded for resentencing. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A075845 -- The People v. Sidney Alfonzo Haynes.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Certified for Publication.)

A077186 -- Melvin Haynes v. Bruce Macphee, et al.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A077423 -- Joanna M., a Minor, etc. v. Belli, Belli, Brown, Monzione, Fabbro & Zakaria et al.

We affirm the judgment, and respondents are awarded costs on appeal. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

DIVISION FIVE

A075952 -- The People v. Luis Roberto Herrera.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, March 5, 1998

DIVISION ONE

A080735 -- The People v. Gary Edward Diaz.

By The Court: The appellant having filed an abandonment of appeal in this court, the appeal on file herein is ordered dismissed and the remittitur is to issue forthwith. Strankman, P.J.

DIVISION TWO

A081828 -- In re Frank Napolitano, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A078212 -- James E. Row v. County of Alameda, et al.

The March 6, 1997, order of the superior court denying Row's petition to file a late claim is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A081808 -- Blaine Evans v. The Superior Court of San Mateo County,
The People of the State of California, R.P.I.**

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

Thursday, March 5, 1998 (continued)

A081818 -- Ronald Wilson Prater, Jr. v. The Superior Court of Contra Costa County, The People of the State of California, R.P.I.

By The Court: The petition for writ of prohibition is denied. Kline, P.J.

DIVISION THREE

A069164 -- The People v. Holdsworth, Steven James.

By The Court: The petition for rehearing is denied. Phelan, P.J.

A074384 -- In re Jason F., a Person Coming Under the Juvenile Court Law.

The jurisdictional and dispositional orders are affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A074730 -- The People v. Goodwin R. Brodit.

A079648 -- In re Goodwin R. Brodit, On Habeas Corpus.

The judgment is affirmed and the petition for writ of habeas corpus is summarily denied. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Certified for Partial Publication.)

A076209 -- In re the Marriage of Melinda G. Workman and Allen E. Workman.

The judgment is affirmed. Wife shall recover her costs on appeal. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A076432 -- In re Daniel K., a Person Coming Under the Juvenile Court Law.

By The Court: The petition for rehearing is denied. Phelan, P.J.

Thursday, March 5, 1998 (continued)

DIVISION FOUR

A077492 -- Wien Air Alaska, Inc., et al. v. Alexander Anolik.

We affirm the judgment. Reardon, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

A077699 -- The People v. Anthony Mora Lopez.

Order Modifying Opinion; The Court: It is ordered that the opinion filed herein on February 27, 1998, be modified in the following particular: (See Order) If the trial court exercises its discretion to order concurrent sentences, it shall resentence defendant and forward an amended abstract of judgment to the Department of Corrections. Hanlon, P.J. (Not for Publication.)

DIVISION FIVE

A073945 -- The People v. Troy Smith et al.

The judgments are affirmed. Haning, J. We concur: Peterson, P.J., Corrigan, J.*

*Associate Justice, Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6, of the California Constitution. (Not for Publication.)

A076098 -- Neal J. Schon v. Sam Conti.

The judgment is affirmed. Costs on appeal to respondent. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

Thursday, March 5, 1998 (continued)

A077108 -- The People v. Jason McCord Patten.

A079205 -- In re Jason McCord Patten on Habeas Corpus.

Order Modifying Opinion and Denying Rehearing: It is ordered that the opinion filed herein on February 10, 1998, be modified in the following particulars: (See Order) Except as modified the petition for rehearing is denied.

This modification effects a change in the judgment. Peterson, P.J. (Not for Publication.)

A077288 -- The People v. Benjamin Franklin Dorries.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A077570 -- John Overman v. City and County of San Francisco.

The judgment of dismissal is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A078078 -- The People v. Dana Shannon Harvey.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A079299 -- In re Peter G., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, March 6, 1998

DIVISION ONE

A078036 -- Ojan Ghavimi v. Department of Motor Vehicles.

The judgment granting plaintiff Ghavimi's writ of mandate and prohibition is reversed and the matter is remanded. The superior court shall weigh the evidence anew to determine whether the administrative decision is supported by a preponderance of the evidence. Respondent DMV shall recover its costs on appeal. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A078042 -- Paul Hughes v. Mandy Ruth Carter et al.

The order of dismissal is modified to state that the dismissal is without prejudice as to Paul Hughes. As modified, the order of dismissal is affirmed. Each party to bear its own costs. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A078115 -- The People v. Mario Alberto Miranda.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A078686 -- In re the Marriage of Linda Rogers and Richard E. Rogers, Jr.

The order is affirmed. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

Friday, March 6, 1998 (continued)

A079004 -- The People v. Lloyd Harrison.

The case is remanded to the trial court to recalculate the award of sentence credits in accordance with the views expressed herein, and to entertain discretion to modify the sentence imposed upon appellant. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

A079168 -- Mary P. Vogel v. County of San Mateo.

The order is affirmed. Strankman, P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

A079974 -- Carolyn J. Davis v. George Gagos et al.

The order is affirmed. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

DIVISION TWO

A078877 -- 2195 Green Street Condominium Association, et al. v. The Superior Court for the County of San Francisco, Pamela Wiget, R.P.I.

By The Court: Respondent court having complied with the directive of paragraph (a) of the alternative writ issued by this court on July 15, 1997, the petition for writ of mandate is dismissed as moot. Kline, P.J.

DIVISION THREE

A074567 -- The People v. Robert Lee Thomas Jr.

Because there was no discretion which could be exercised, appellant's quest for a remand for resentencing must fail. The judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday, March 6, 1998 (continued)

A075272 -- ITT Commercial Finance Corp. v. John J. Ford et al., JMB Property Managers, Inc.

For all the foregoing reasons, the judgment of the trial court is affirmed in its entirety. Costs to respondent. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A077437 -- The People v. Tony D. Galbert.

Affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A080540 -- The People v. Isidro Cruz Alonso.

We identify no potentially meritorious issue which require further briefing. The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A080578 -- The People v. Russell Lee Chitwood.

There are no potentially viable issues to be briefed. The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A074955 -- Linda Caswell, as Trustee etc. v. Bruce C. Pratt.

The judgment is reversed. The trial court is hereby directed to enter judgment quieting title in the Dolphin Business Trust. Pratt to bear costs of appeal. Saldamando, J.* We concur: Hanlon, P.J., Poché, J.

*Judge of the City and County of San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Friday, March 6, 1998 (continued)

A079597 -- The People v. Michael Frank Mateas.

The judgment is affirmed. McGuinness, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

DIVISION FIVE

A075799 -- The People v. Damon Shavaya Davis.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, March 9, 1998

DIVISION ONE

A080760 -- The People v. Harold Brown.

The order permanently revoking appellant's probation is affirmed. Stein, J.,
We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A075992 -- The People v. Sothin J. Damlong.

The abstract of judgment is modified to reflect the correct criminal street
gang enhancement: defendant shall not be paroled until a minimum of 15 calendar
years have been served (§ 186.22, subd. (b)(4)). As modified, the judgment is
affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A078182 -- The People v. Edward J. Wise.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J.
(Not for Publication.)

A078263 -- Harold A. Julien v. County of Alameda.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

Monday, March 9, 1998 (continued)

A078709 -- In re Felix S., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court terminating appellant's parental rights is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A078867 -- The Regents of the University of California et al. v. The Superior Court of San Francisco County, Tim Molloy et al., R.P.I.

The alternative writ is discharged and the petition for a peremptory writ of mandate is denied. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

DIVISION FIVE

A074880 -- The People v. Joan Larae Carrafa.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A078873 -- The Housing Group, et al. v. Drath, Clifford, Murphy, Wennerholm & Hagen, et al.

The judgment is affirmed. Drath's motion for sanctions on appeal is denied. THG's opposition to Drath's motion for sanctions is stricken from the record as filed without authorization from the court and unnecessary. (Cal. Rules of Court, rule 26(e).) Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, March 10, 1998

DIVISION ONE

A071436 -- The People v. Loi Khac Nguyen.

The judgment is affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

A076903 -- The People v. Zachary Lemuel Session.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A077243 -- The People v. Oscar Mickey Curry.

The judgment is affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

A077706 -- Donna Vavuris v. Michael J. Carboni.

The judgment is affirmed. Respondent is entitled to costs on appeal. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

Tuesday, March 10, 1998 (continued)

DIVISION TWO

A063459 -- James Buttram v. Owens-Corning Fiberglas Corporation.

The judgment is reversed and the case remanded to the trial court for further action consistent with the Supreme Court's opinion of August 18, 1997, and the forgoing. Each party shall bear his or its own costs on appeal. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A074986 -- The People v. James R. Metters, Jr.

The judgment of the trial court is affirmed. Ruvolo, J. I concur: Haerle, J. See Dissenting Opinion of Kline, P.J. (Certified for Publication.)

A076050 -- The People v. Daniel Michael Dorothy.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A077240 -- The People v. Jamaine Vernon Paige et al.

The judgments are affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A077358 -- In re Sean P., a Person Coming Under the Juvenile Court Law.

A080047 -- In re Lenore P. on Habeas Corpus.

We affirm the judgment, and the January 13 and February 5, 1997 orders are to be modified in accordance with this opinion. We deny the petition for habeas corpus. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Tuesday, March 10, 1998 (continued)

A077853 -- In re Stephen M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A081862 -- In re Rufus Williams, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A081901 -- Floyd G., v. Superior Court of the County of Humboldt, Humboldt County Department of Social Services, R.P.I.

By The Court: The petition for writ of habeas corpus/mandate/prohibition/stay is denied. Kline, P.J.

DIVISION THREE

A080377 -- Dawn Silver, as Trustee, etc. v. Rule Metal Products, Inc., et al.

The trial court erred in deeming August 4, 1997, the date of service of the notice of entry of judgment when service was, in fact, completed on June 13, 1997. Defendants' notice of appeal was not timely. The appeal is dismissed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FIVE

A078801 -- Fantasy, Inc., v. Highland Music, Inc.

The trial court's order is reversed. This matter is remanded to the trial court with instructions to conduct further proceedings in accordance with the views expressed in this opinion. Fantasy's motion for sanctions on appeal is denied. Each party shall bear its own costs on appeal. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

Tuesday, March 10, 1998 (continued)

A080859 -- The People v. Abe Morris Hadnet.

The order revoking appellant's probation and the judgment imposed are affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FOUR

Tuesday, March 10, 1998

Court convened at 9:30 a.m. in its courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Hanlon, P.J., Poche, J. and Reardon, J.; Channing Hoo, Deputy Clerk; CHP Officer E. Swanson, Baliff.

A074321 People
 v.
 John Robert Gromo, Jr.
Cause called and argued, through teleconference, by Gordon Brownell, counsel for appellant Gromo, Jr., and, through teleconference, by David Rose, counsel for respondent. Cause ordered submitted.

A076138 Mojdeh Froozandeh
 v.
 U.C.S.F. et al.
Cause called and argued by Robert Rudolph, counsel for appellant Froozandeh, and by Barbara Perry, counsel for respondents. Cause ordered submitted.

At this point, the court reconstituted itself to include Hanlon, P.J., Poche, J. and McGuiness, J.

A079322 Tomei Industries (America), Inc.
 v.
 Thomas D. Pereira
Cause called and argued by Richard J. Archer, counsel for appellant Pereira, and by Terence L. Bruiniers, counsel for respondent. Cause ordered submitted.

At this point, the court reconstituted itself to include Hanlon, P.J.,
Reardon, J. and McGuinness, J.

A073933 Marilyn Winetrub et al.
v.
City Investment Corporation
Cause called and argued by Bradley Kass, counsel for appellant City, and
by Elizabeth von Emster, counsel for respondents. Cause ordered
submitted.

A078249 Hubert E. Jewett
v.
Dewenter Family Trust et al.
Cause called and argued by Tom Johnson, counsel for appellant Jewett,
and by Thomas E. Owen, counsel for respondent. Cause ordered
submitted.

At this point, the court reconstituted itself to include Poche, Acting P.J.,
Reardon, J. and McGuinness, J.

A077140 People
v.
Merrill Gaines, Jr.
Cause called and argued by Ruth Spear, counsel for appellant Gaines, Jr.,
and, through teleconference, by David Salmon, counsel for respondent.
Cause ordered submitted.

A075588 Zora M. Biagini
v.
Carter Hawley Hale Stores, Inc.
Cause called and argued by Elliot L. Bien, counsel for appellant Biagini,
and by Troy Wiggins, counsel for respondent. Cause ordered submitted.

The court adjourned at 12:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, March 11, 1998

DIVISION ONE

A076197 -- Mohini Robinson v. Livermore Valley Joint Unified School District.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A079330 -- The People v. Jian Qiang Guan.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A074469 -- Contra Costa Water District v. Alba C. Houston Orchard Company, Inc.

The order awarding litigation expenses is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A074986 -- The People v. James R. Metters, Jr.

Due to photocopying error, pages 26 and 27 of the dissent of Kline, P.J. were omitted from copies of the opinion filed March 10, 1998, and are thus attached hereto. Kline, P.J.

Wednesday, March 11, 1998 (continued)

A077998 -- George Nixon v. New United Motor Manufacturing, Inc.

The judgment is reversed. Costs awarded to Nixon as the prevailing party. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A081163 -- Anna Vertkin, M.D. v. The Superior Court of Marin County, Karen Emge and Francine Sabraw, R.P.I.

By The Court: Respondent superior court having granted plaintiffs leave to file an amended complaint, the petition for writ of mandate is denied without prejudice. Kline, P.J.

A081503 -- Stephen M. Moskowitz, et al. v. The Superior Court of San Francisco County, Deborah Tracy and Joseph Tracy, R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Real parties' request for judicial notice is denied. Kline, P.J.

A081916 -- In re Ralph Antonio Taylor, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Petitioner must seek relief, in any, in Alameda Superior Court. Kline, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, March 12, 1998

DIVISION ONE

A076641 -- The People v. Phillip D. Greenwood.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A077447 -- The People v. Jeffrey T. Afleje.

Accordingly, the judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

A077468 -- Sierra Club v. California Coastal Commission, California Department of Transportation, et al., R.P.I.

The judgment is affirmed. Costs to respondents. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A078007 -- The People v. James Rudolph Ballance.

The order denying the motion to reinstate the complaint is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A078246 -- Robert De Vries et al. v. United Airlines.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

Thursday, March 12, 1998 (continued)

A078522 -- Donald J. Mindham et al. v. Plant Brothers Corporation.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A079812 -- The People v. Germain Ivan Lopez.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A074855 -- The People v. Paul Dufrisne.

A080618 -- In re Paul Dufrisne on Habeas Corpus.

The judgment on the appeal (A074855) is affirmed. The petition for writ of habeas corpus (A080618) is denied. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A075828 -- The People v. Tony Alfonso Woods.

The judgment is affirmed as modified and remanded with directions. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A077382 -- Sheryl Land v. Hoseit & Koelewyn.

The trial court's order granting sanctions is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A077456 -- Jean Kelly, as Executrix, etc. v. American States Insurance Co., et al.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Thursday, March 12, 1998 (continued)

A079054 -- Diane Bloom v. Workers' Compensation Appeals Board and Weigh Tronix, Inc.

The Court: The petition for writ of review is denied. Kline, P.J.

A079362 -- Kindercare et al. v. Workers' Compensation Appeals Board and Claire Jaggers.

The Court: The petition for writ of review is denied. Kline, P.J.

A080415 -- In re Brandese S., a Person Coming Under the Juvenile Court Law.

The orders continuing the wardship and committing appellant to the Chief Probation Officer for out of home placement are affirmed. Kline, P.J. We concur: Lambden, J., Haerle, J. (Not for Publication.)

DIVISION THREE

A065358 -- David Peterson et al. v. Owens-Corning Fiberglas Corporation.

The judgment is reversed as to the award of noneconomic damages. The cause is remanded to the trial court to determine the amount of such damages for which OCF is liable, consistent with this opinion and *Buttram v. Owens-Corning Fiberglas Corp.*, *supra*, 16 Cal.4th 520, and enter a new judgment accordingly. Each party is to bear its own costs on appeal. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A078117 -- The People v. David Wayne Baker.

The judgment is affirmed. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Thursday, March 12, 1998 (continued)

A080739 -- The People v. James Johnson.

The appeal is dismissed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J.
(Not for Publication.)

A081064 -- Leonard Lothlen v. Robert Freedman et al.

The motion to dismiss is granted. Phelan, P.J. We concur: Parrilli, J.,
Walker, J. (Not for Publication.)

DIVISION FOUR

A077472 -- Ford & Vlahos v. Sucherman & Collins et al.

We affirm the judgment in its entirety. Reardon, J. We concur: Hanlon,
P.J., Poché, J. (Not for Publication.)

A079939 -- The People v. Royal Rees Marsh.

The judgment is affirmed, and the trial court is ordered to correct the
abstract of judgment to reflect a two-year term for the Penal Code section 470
count concurrent with the Penal Code section 459 count and forward the corrected
abstract to the Department of Corrections. Hanlon, P.J. We concur: Reardon, J.,
McGuiness, J. (Not for Publication.)

DIVISION FIVE

A068667 -- The People of the State of California v. Wright, Scott Allan.

By The Court: The written opinion which was filed on 02-25-98, has now
been certified for publication pursuant to Rule 976 (b) of the California Rules of
Court, and it is therefore ordered that it be published in the official reports.
Peterson, P.J.

Thursday, March 12, 1998 (continued)

A080100 -- The People v. Emani Wallace Gordon.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J.
(Not for Publication.)

A080929 -- Michelle K. v. Contra Costa County Superior Court, Contra Costa County Social Services Department, R.P.I.

The Court: The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (l).) The Department's motion to dismiss is denied as moot. Since the section 366.26 hearing is set for March 16, 1998, this opinion is final as to this court forthwith. (See rule 24(d).) Before Peterson, P.J.; Haning, J.; Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, March 13, 1998

DIVISION TWO

**A078534 -- Alan Barcelona et al. v. Department of Personnel
Administration.**

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on February 19, 1998, be modified in the following particulars: (See Order) This modification does not effect a change in the judgment.

The petition for rehearing is denied. Kline, P.J.

A078673 -- ITT Hartford v. Peter Logan et al.

The judgment is reversed. ITT shall recover costs on appeal. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION THREE

A076237 -- Mervyn I. Silberberg v. David Herbert Silberberg.

We reverse and remand with instructions that the trial court enter an order overruling respondent's general and special demurrers to the first amended complaint. Respondent's request for sanctions is denied. Appellant is awarded costs on appeal. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday, March 13, 1998 (continued)

A077866 & A077873 -- The People v. American Bankers Insurance Company.

The judgments are affirmed. The parties shall bear their own costs on appeal. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A079122 -- Sue Lui v. Joseph C. Chu.

We **AFFIRM** the portion of the trial court's order sustaining without leave to amend and the judgment dismissing Lui's causes of action for sexual harassment, intentional infliction of emotional distress, and negligent infliction of emotional distress. We **REVERSE** that part of the trial court's order sustaining without leave to amend and the judgment dismissing Lui's cause of action for defamation, and **REMAND** for further proceedings on that cause of action.

Costs awarded to appellant. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A077556 -- The People v. Ronald William Cassidy.

The judgment is reversed. Poché, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

DIVISION FIVE

A076279 -- Milagra Ridge Partners, Ltd. v. City of Pacifica et al.

The judgment is affirmed. Costs to respondents. Haning, J. We concur: Peterson, P.J., Jones, J. (Certified for Publication.)

Friday, March 13, 1998 (continued)

A078997 -- The People v. Michael A. Gonzales.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J.
(Not for Publication.)